

**TOWN OF FAIRFAX  
STAFF REPORT  
Department of Planning and Building Services**

**TO:** Fairfax Planning Commission

**DATE:** January 21, 2010

**FROM:** Jim Moore, Director of Planning and Building Services  
Linda Neal, Senior Planner

**ADDRESS:** 15 Belle Avenue; Assessor's Parcel No. 002-211-11

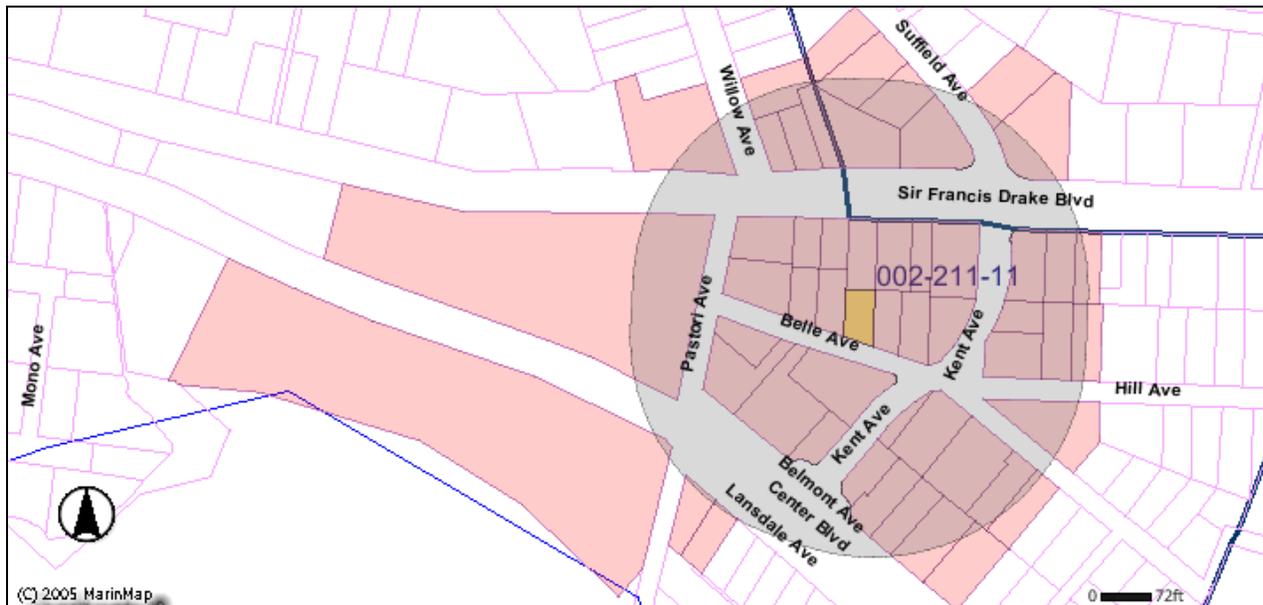
**OWNERS:** Darrell and Mary Hickman

**APPLICANTS:** Same as above

**PROJECT:** Conversion of a carport to a garage

**ACTION:** Use Permit and Side Setback Variance; Application # 10-01

**CEQA STATUS:** Categorically exempt, § 15301(e)(1) and 15305(a)



**15 BELLE AVENUE**

## BACKGROUND

The existing 3,276sf parcel is level and is only 40ft wide. The parcel was created in its current configuration by the recording of the Fairfax Tract Subdivision on April 8, 2008. Construction of the residence was completed on November 15, 1950.

The parking on the site is legal non-conforming because there is only one space in the existing carport while Town Code § 17.052.030(A)(1)(b) requires that one bedroom residences have two on-site parking spaces.

The residence is located in the Residential RD 5.5-7 Zone and complies with the regulations of that district as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
<b>Required/ Permitted</b>	<b>6ft</b>	<b>6t</b>	<b>25ft</b>	<b>5ft &amp; 5ft</b>	<b>15ft</b>	<b>.40</b>	<b>.35</b>	<b>28.5ft and 2 stories</b>
<b>Existing</b>	<b>8ft</b>	<b>21ft</b>	<b>29ft</b>	<b>5ft &amp; 9ft 7in</b>	<b>14ft 7in</b>	<b>.24</b>	<b>.31</b>	<b>14ft and 1 story</b>
<b>Proposed</b>	<b>8ft</b>	<b>21ft</b>	<b>29ft</b>	<b>5ft &amp; 9ft 7in</b>	<b>14ft 7in</b>	<b>.24</b>	<b>.31</b>	<b>14ft and 1 story</b>

## DISCUSSION

The project requires the approval of the following discretionary permit:

**A Use Permit** – The parcel is only 3,276 square feet in size and 41.50 feet wide. Town code section 17.084.050(A) requires that projects on parcels that are not a minimum of 5,500 square feet in size and 60 feet wide require a Use Permit from the Planning Commission prior to issuance of a building permit.

**A Side Setback Variance** – The existing residence maintains a combined side yard setback of 14 feet 7 inches. The new garage wall will maintain a combined side yard setback of 14 feet 7 inches. Town Code § 17.084.070(2) requires a combined side yard setback of 15ft and a variance from the Planning Commission for any project that encroaches into the required setback.

The minimum side yard setbacks were 3 feet in 1950 when the structure was built. In 1973, the Town adopted a new Zoning Ordinance which substantially increased the required setbacks for all the residential zones rendering most of the properties in Town non-conforming.

The closest neighboring structure is the garage at 11 Belle Avenue which is located on the property line. Construction of the wall will not require the removal of any vegetation and will not encroach closer to the neighboring residence at 11 Belle Avenue than the existing residence and carport.

Enclosing the open carport and installing a garage door will have a minimal impact on this property and will screen the owner's vehicle from view.

## **RECOMMENDATION**

Move to approve application # 10-01 based on the following findings and subject to the following conditions of approval:

### Recommended Findings

The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment because the garage will maintain the required minimum 5 foot side yard setback similar to other properties in the vicinity.

The proposed enclosure will not encroach any further towards the neighbor's garage at 11 Belle Avenue than the existing carport and residence. Therefore, the development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

Approval of the use permit will result in equal or better development of the premises than would otherwise be the case because at least one vehicle will be screened from view from the street.

The site is small and narrow in width. These are the special circumstances applicable to the property that would result in the strict application of the combined side yard setback regulation prohibiting the owner from having a garage enclosure.

There are other garages in the immediate neighborhood that maintain similar or smaller side yard setbacks. Therefore, the variance or adjustment will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.

The strict application of this title would result in excessive or unreasonable hardship because the strict enforcement would result in the owner being unable to make any improvements to his property.

The granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated because the project will not encroach further towards the neighboring property than the existing residence and will not encroach any further into the required 15 foot combined side yard setback.

#### Recommended Conditions

The applicant must obtain a building permit for the project prior to starting work.

No windows or other openings are permitted on the western side of the garage per the Uniform Building Code.

The garage must be used to park vehicles in and may not be used for storage per Town Code sections 17.17.052.010(D) and 17.052.030. Use of the garage for other than parking will result in the issuance of an administrative citation.

#### **ATTACHMENTS**

Applicant's supplemental information and plans